STATUTORY INSTRUMENTS

1999 No. 622

INCOME TAX

The Friendly Societies (Provisional Repayments for Exempt Business) Regulations 1999

Made - - - -	*9th March 1999*
Laid before the House of Commons	*9th March 1999*
Coming into force	*30th March 1999*

The Treasury, in exercise of the powers conferred on them by section 121 of the Finance Act 1993**(a)**, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Friendly Societies (Provisional Repayments for Exempt Business) Regulations 1999 and shall come into force on 30th March 1999.

(2) These Regulations shall have effect in relation to accounting periods of friendly societies ending on or after 1st July 1999.

Interpretation

2. In these Regulations unless the context otherwise requires–

"exempt business" means any business of a friendly society the profits arising from which are exempt from income tax and corporation tax under section 460(1)**(b)**, 461(1) or 461B(1)**(c)** of the Taxes Act, not being a business carried on by a friendly society all of whose profits are so exempt;

"Schedule 3" means Schedule 3 to the Finance (No. 2) Act 1997**(d)**;

"Schedule 19AB" means Schedule 19AB to the Taxes Act**(e)**;

"the Taxes Act" means the Income and Corporation Taxes Act 1988**(f)**.

Application of Schedule 19AB – general

3.—(1) Schedule 19AB shall have effect, in accordance with paragraphs (2) and (3) below, in relation to exempt business of a friendly society as it has effect in relation to the pension business of an insurance company.

(2) Schedule 19AB, as it is deemed to have effect, by virtue of paragraph 12(1) of Schedule 3 for the purposes of section 121 of the Finance Act 1993, without the amendments made by Schedule 3, shall have effect as mentioned in paragraph (1) above with the modifications and exceptions specified in regulations 4, 5 and 8 to 12.

(3) Schedule 19AB, as it has effect, by virtue of paragraph 12(2) of Schedule 3 for the purposes of section 121 of the Finance Act 1993, with the amendments made by Schedule 3, that

(a) 1993 c. 34.
(b) Section 460(1) was amended by paragraph 5 of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48).
(c) Section 461B was inserted by paragraph 7 of Schedule 9 to the Finance (No. 2) Act 1992.
(d) 1997 c. 58.
(e) Schedule 19AB was inserted by Schedule 8 to the Finance Act 1991 (c. 31).
(f) 1988 c. 1.

is to say, in relation to distributions made to friendly societies on or after 6th April 2004, shall have effect as mentioned in paragraph (1) above with the modifications and exceptions specified in regulations 6 to 12.

Substitution of paragraph 1(1) of Schedule 19AB (as unamended by Schedule 3)

4.—(1) Paragraph (2) substitutes the following sub-paragraph for sub-paragraph (1) of paragraph 1 of Schedule 19AB**(a)** (as unamended by Schedule 3) in relation to exempt business of a friendly society.

(2) For that sub-paragraph (1) there shall be substituted–

"(1) A friendly society carrying on both tax exempt business and business other than tax exempt business shall for each provisional repayment period in an accounting period be entitled on a claim made in that behalf to a payment (in this Schedule referred to as a "provisional repayment") of an amount equal to the aggregate of the following amounts–

(a) the appropriate portion of any income tax borne by deduction on any payment received by the society in that provisional repayment period that is referable to its tax exempt business, and either

(b) as respects any distribution made before 6th April 1999 that–

(i) is received by the society in that provisional repayment period, and

(ii) is referable to its tax exempt business,

the appropriate portion of any tax credit in respect of that distribution, or

(c) as respects any distribution made on or after 6th April 1999 and before 6th April 2004 that–

(i) is received by the society in that provisional repayment period,

(ii) is referable to its tax exempt business, and

(iii) is a distribution to which section 90(1)(b) of the Finance Act 1998 applies,

the appropriate portion of any tax credit in respect of that distribution.".

Substitution of paragraph 1(5) of Schedule 19AB where regulation 4 applies

5.—(1) Paragraph (2) substitutes the following sub-paragraphs for sub-paragraph (5) of paragraph 1 of Schedule 19AB in circumstances where regulation 4(2) applies.

(2) For sub-paragraph (5) there shall be substituted–

"(5) In sub-paragraph (1)(a) and (b) above "the appropriate portion" means–

(a) where the payment or distribution in question is income arising from–

(i) assets linked to tax exempt basic life assurance and general annuity business or to tax exempt class IV business, or

(ii) assets other than those of the society's long term business fund,

the whole;

(b) where the payment or distribution in question is income arising from assets of the society's overseas life assurance fund, the fraction whose numerator is the mean of the opening and closing liabilities to policyholders in respect of the society's tax exempt overseas life assurance business and whose denominator is the mean of the opening and closing liabilities to policyholders in respect of the whole of the society's overseas life assurance business;

(c) if and to the extent that the payment or distribution in question is income arising from assets of the society's long term business fund but is not referable to a category of business by virtue of subsection (3) or (4) of section 432A**(b)**, the provisional fraction;

(a) Paragraph 1 of Schedule 19AB was amended by section 103(2)(h) of, and Part III(9) of Schedule 23 to, the Finance Act 1993, paragraph 12(1)(b) of Schedule 8 to the Finance Act 1995 (c. 4), paragraph 1 of Schedule 34 to the Finance Act 1996 (c. 8), paragraph 10 and 11(2) of Schedule 3, and Part II(6) of Schedule 8, to the Finance (No. 2) Act 1997, and paragraph 51(2) to (5) of Schedule 19, and Part III(28) of Schedule 27, to the Finance Act 1998 (c. 36).

(b) Section 432A was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 (c. 29) and amended by section 91(2)(a) of, and Part III(8) of Schedule 23 to, the Finance Act 1993, section 167(2) of the Finance Act 1996, and paragraph 13 of Schedule 8 to the Finance Act 1995. The section was modified in relation to friendly societies by regulations 9 to 13 of S.I. 1997/473.

(d) except as provided by paragraph (a), (b) or (c) above, none.

(5A) In sub-paragraph (1)(c) above "the appropriate portion" means–

(a) where the distribution in question is income arising from assets linked to tax exempt basic life assurance and general annuity business or to tax exempt class IV business the profits of which are exempt from tax by virtue of section 460(1) ("section 460(1) exempt business"), the whole;

(b) where the distribution in question is income arising from assets of the society's overseas life assurance fund, the fraction whose numerator is the mean of the opening and closing liabilities to policyholders in respect of the society's tax exempt overseas life assurance business and whose denominator is the opening and closing liabilities to policyholders in respect of the whole of the society's overseas life assurance business;

(c) if and to the extent that the distribution in question is income arising from assets of the society's long term business fund but, on the assumption that section 460(1) exempt business were a separate category of business within section 432A, is not referable to a category of business by virtue of subsection (3) or (4) of that section, the provisional fraction;

(d) except as provided by paragraph (a), (b) or (c) above, none.

(5B) In determining the provisional fraction for the purposes of sub-paragraph (5)(c) above, tax exempt basic life assurance and general annuity business and tax exempt class IV business shall be taken to be a single category of business for the purposes of section 432A (5).

(5C) In determining the provisional fraction for the purposes of sub-paragraph (5A)(c) above, tax exempt basic life assurance and general annuity business and section 460(1) exempt business shall be taken to be a single category for the purposes of section 432A(5).

(5D) In sub-paragraphs (5) and (5A) above references to assets of the society's long term business fund–

(a) as respects societies to which regulation 13(1) of the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997**(a)** applies, shall be construed in accordance with the definition in subsection (11) of section 432A, read with subsections (12) to (14) of that section, as those subsections are added by regulation 13(5) of those Regulations;

(b) as respects other societies, shall be construed in accordance with the definitions of "long term business" (as substituted by regulation 6(4) of those Regulations) and "long term business fund" in section 431(2)**(b)**.

(5E) In sub-paragraphs (5) to (5C) above–

"tax exempt basic life assurance and general annuity business" shall be construed in accordance with the definition inserted in section 431(2) by regulation 6(2) of the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997;

"tax exempt class IV business" shall be construed in accordance with the definition inserted in section 431(2) by regulation 7(2) of those Regulations;

"tax exempt overseas life assurance business" shall be construed in accordance with section 441(4D)**(c)**."

Substitution of paragraph 1(1) of Schedule 19AB (as amended by Schedule 3)

6.—(1) Paragraph (2) substitutes sub-paragraph (1) of paragraph 1 of Schedule 19AB (as amended by Schedule 3) in relation to exempt business of a friendly society.

(2) For that sub-paragraph (1) there shall be substituted–

"(1) A friendly society carrying on both tax exempt business and business other than tax exempt business shall for each provisional repayment period in an accounting period be

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(a) S.I. 1997/473, amended by S.I. 1997/2877.

(b) Section 431 was amended by paragraph 1 of Schedule 6 to the Finance Act 1990, paragraph 1 of Schedule 8 and Part VIII(5) of Schedule 29 to the Finance Act 1995, and Part V(26) of Schedule 41 to the Finance Act 1996.

(c) Subsection (4D) of section 441D was inserted by regulation 28(3) of S.I. 1997/473.

entitled on a claim made in that behalf to a payment (in this Schedule referred to as a "provisional repayment") of an amount equal to the appropriate portion of any income tax borne by deduction on any payment received by the society in that provisional repayment period that is referable to its tax exempt business."

Substitution of paragraph 1(5) of Schedule 19AB where regulation 6 applies

7.—(1) Paragraph (2) substitutes the following sub-paragraphs for sub-paragraph (5) of paragraph 1 of Schedule 19AB in circumstances where regulation 6(2) applies.

(2) For that sub-paragraph (5) there shall be substituted–

"(5) In sub-paragraph (1) above "the appropriate portion" means–

(a) where the payment in question is income arising from–

(i) assets linked to tax exempt basic life assurance and general annuity business or to tax exempt class IV business, or

(ii) assets other than those of the society's long term business fund,

the whole;

(b) where the payment in question is income arising from assets of the society's overseas life assurance fund, the fraction whose numerator is the mean of the opening and closing liabilities to policyholders in respect of the society's tax exempt overseas life assurance business and whose denominator is the mean of the opening and closing liabilities to policyholders in respect of the whole of the society's overseas life assurance business;

(c) if and to the extent that the payment in question is income arising from assets of the society's long term business fund but is not referable to a category of business by virtue of subsection (3) or (4) of section 432A, the provisional fraction;

(d) except as provided by paragraph (a), (b) or (c) above, none.

(5A) In determining the provisional fraction for the purposes of sub-paragraph (5)(c) above, tax exempt basic life assurance and general annuity business and tax exempt class IV business shall be taken to be a single category for the purposes of section 432A(5).

(5B) In sub-paragraph (5) above references to assets of the society's long term business fund–

(a) as respects societies to which regulation 13(1) of the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 applies, shall be construed in accordance with the definition in subsection (11) of section 432A, read with subsections (12) to (14) of that section, as those subsections are added by regulation 13(5) of those Regulations;

(b) as respects other societies, shall be construed in accordance with the definitions of "long term business" (as substituted by regulation 6(4) of those Regulations) and "long term business fund" in section 431(2).

(5C) In sub-paragraphs (5) and (5A) above–

"tax exempt basic life assurance and general annuity business" shall be construed in accordance with the definition inserted in section 431(2) by regulation 6(2) of the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997;

"tax exempt class IV business" shall be construed in accordance with the definition inserted in section 431(2) by regulation 7(2) of those Regulations;

"tax exempt overseas life assurance business" shall be construed in accordance with section 441(4D)."

Modifications of paragraph 1(2) to (4), (7), (10) and (11) of Schedule 19AB

8.—(1) Paragraphs (2) to (7) specify modifications of sub-paragraphs (2) to (4), (7), (10) and (11) of paragraph 1 of Schedule 19AB in relation to exempt business of a friendly society.

(2) In sub-paragraph (2)–

(a) for the words "a company" there shall be substituted the words "a society";

(b) for paragraph (a) there shall be substituted–

"(a) shall begin whenever–

(i) the society begins, at a time when it is carrying on only tax exempt business, to carry on business other than tax exempt business;

(ii) the society begins, at a time when it is carrying on only business other than tax exempt business, to carry on tax exempt business;

(iii) an accounting period of the society begins at a time when the society is carrying on both tax exempt business and business other than tax exempt business; or

(iv) a provisional repayment period of the society ends, at a time when the society is carrying on both tax exempt business and business other than tax exempt business; and ";

(c) in paragraph (b)(ii) for the word "company" there shall be substituted the word "society".

(3) In sub-paragraph (3) for the word "company" (wherever occurring) there shall be substituted the word "society".

(4) In sub-paragraph (4)(a)–

(a) for the word "company" there shall be substituted the word "society";

(b) for the word "company's" there shall be substituted the word "society's".

(5) In sub-paragraph (7)–

(a) for the words "pension business" (wherever occurring) there shall be substituted the words "tax exempt business";

(b) for the word "company" (wherever occurring) there shall be substituted the word "society".

(6) In sub-paragraph (10) for the word "company" (wherever occurring) there shall be substituted the word "society".

(7) In sub-paragraph (11)(a) for the word "company" there shall be substituted the word "society".

Modifications of paragraph 2 of Schedule 19AB

9.—(1) Paragraph (2) specifies modifications of paragraph 2 of Schedule 19AB**(a)** in relation to exempt business of a friendly society.

(2) In sub-paragraphs (1) to (3) for the word "company" (wherever occurring) there shall be substituted the word "society".

Modifications of paragraph 3 of Schedule 19AB

10.—(1) Paragraphs (2) to (7) specify modifications of paragraph 3 of Schedule 19AB**(b)** in relation to exempt business of a friendly society.

(2) In sub-paragraph (1)–

(a) for the words "an insurance company's" there shall be substituted the words "a friendly society's";

(b) for the words "the company" there shall be substituted the words "the society";

(c) for the words "the insurance company" there shall be substituted the words "the friendly society".

(a) Paragraph 2 of Schedule 19AB was amended by paragraph 2 of Schedule 34 to the Finance Act 1996 and paragraph 51(6) of Schedule 19 to the Finance Act 1998.

(b) Paragraph 3 of Schedule 19AB was amended by paragraph 3 of Schedule 34 to the Finance Act 1996, paragraph 11(3) to (5) of Schedule 3, and Part II(7) of Schedule 8, to the Finance (No. 2) Act 1997, and sections 37(2) and 91 of, and paragraph 51(7) to (12) of Schedule 19, and Part III(3) of Schedule 27, to the Finance Act 1998.

(3) In sub-paragraph (1A)–

(a) for the word "company" (wherever occurring) there shall be substituted the word "society";

(b) for the words "pension business" (wherever occurring) there shall be substituted the words "tax exempt business".

(4) In sub-paragraph (1B)–

(a) for the words "the company" there shall be substituted the words "the society";

(b) for the words "the company's" there shall be substituted the words "the society's".

(5) In sub-paragraph (1C) for the words "pension business" (wherever occurring) there shall be substituted the words "tax exempt business".

(6) In sub-paragraph (5) for the word "company" there shall be substituted the word "society".

(7) In sub-paragraph (8) for the word "company" (wherever occurring) there shall be substituted the word "society".

Disapplication of paragraphs 4 and 5 of Schedule 19AB

11. Paragraphs 4 and 5 of Schedule 19AB shall not apply to exempt business of a friendly society.

Modifications of paragraph 6 of Schedule 19AB

12.—(1) Paragraphs (2) and (3) specify modifications of paragraph 6 of Schedule 19AB**(a)** in relation to exempt business of a friendly society.

(2) In sub-paragraph (1) after the definition of "provisional repayment period" there shall be added the following definition–

" "tax exempt business" means any business of a friendly society the profits arising from which are exempt from income tax and corporation tax under section 460(1), 461(1) or 461B(1). "

(3) In sub-paragraph (4) for the words "an insurance company" there shall be substituted the words "a friendly society".

Revocations

13. The Friendly Societies (Provisional Repayments for Exempt Business) Regulations 1993**(b)** and the Friendly Societies (Provisional Repayments for Exempt Business) (Amendment) Regulations 1997**(c)** are hereby revoked as respects accounting periods in relation to which, by virtue of regulation 1(2), these Regulations have effect.

David Jamieson
Jim Dowd
9th March 1999 Two of the Lords Commissioners of Her Majesty's Treasury

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(a) Paragraph 6 of Schedule 19AB was amended by paragraph 4 of Schedule 34 to the Finance Act 1996 and by paragraph 51(13) of Schedule 19 to the Finance Act 1998.
(b) S.I. 1993/3112.
(c) S.I. 1997/474.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Schedule 19AB to the Income and Corporation Taxes Act 1988 ("Schedule 19AB") applies to an insurance company carrying on pension business, and makes provision for provisional repayments of income tax borne by deduction on payments received by the company.

Section 121 of the Finance Act 1993 empowers the Treasury to provide by regulations for Schedule 19AB to have effect in relation to the tax exempt business of a friendly society as it has effect in relation to the pension business of an insurance company, with such modifications and exceptions as may be specified in the regulations. The Friendly Societies (Provisional Repayments for Exempt Business) Regulations 1993 (S.I. 1993/3112) ("the 1993 Regulations"), as amended by the Friendly Societies (Provisional Repayments for Exempt Business) (Amendment) Regulations 1997 (S.I. 1997/474) ("the 1997 Amending Regulations") provided for Schedule 19AB to have such effect.

Schedule 19AB was amended by Schedule 34 to the Finance Act 1996 ("Schedule 34") and Schedule 3 to the Finance (No. 2) Act 1997 ("Schedule 3") so as to have effect in relation to provisional repayment periods falling in accounting periods ending on or after 1st July 1999, being the day appointed in relation to corporation tax self assessment. So far as the regulatory power in section 121 of the Finance Act 1993 is concerned, the amendments made by Schedule 3 have effect only in relation to distributions made to friendly societies on or after 6th April 2004. These Regulations make provision for Schedule 19AB as amended by Schedule 34 and Schedule 3 to have effect in relation to friendly societies for the purposes of corporation tax self assessment. They also revoke the 1993 Regulations and the 1997 Amending Regulations so far as concerns corporation tax self assessment.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 provides that Schedule 19AB shall have effect in relation to the tax exempt business of friendly societies subject to modifications and exceptions which are specified in regulations 4 to 12. Because Schedule 3 amends sub-paragraph (1) of paragraph 1 of Schedule 19AB in such a way as to result in the need for different modifications in these Regulations, regulations 4 and 5 modify that paragraph as it has effect without the amendments made by Schedule 3 (so as to apply to distributions made to friendly societies before 6th April 2004), and regulations 6 and 7 modify that paragraph as it has effect with those amendments (so as to apply to distributions made to friendly societies on or after that date). Amendments made by Schedule 3 to other paragraphs of Schedule 19AB do not affect the modifications.

Regulation 13 revokes the 1993 and the 1997 Amending Regulations.

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